

AMENDED IN ASSEMBLY AUGUST 28, 2015

AMENDED IN ASSEMBLY JULY 7, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MARCH 26, 2015

**SENATE BILL**

**No. 319**

**Introduced by Senator Beall**

**(Principal coauthor: Senator Mitchell)**

(Principal coauthor: Assembly Member Chiu)

**(Coauthor: Senator Monning)**

(Coauthors: Assembly Members ~~Gatto and Gipson~~ *Gatto, Gipson, and Lopez*)

February 23, 2015

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An act to amend Section 56.103 of the Civil Code, and to amend Sections 5328.04 and 16501.3 of the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

SB 319, as amended, Beall. Child welfare services: public health nursing.

Existing law requires the State Department of Social Services to establish a program of public health nursing in the child welfare services program, and requires counties to use the services of the foster care public health nurse under this program. Existing law requires the foster care public health nurse to perform specified duties, including participating in medical care planning and coordinating for a child in foster care.

This bill would ~~require a county to provide the services of a foster care public health nurse to children in foster care. The bill would require~~

~~a foster care public health nurse to monitor each child in foster care who is administered one or more psychotropic medications, as specified. authorize a foster care public health nurse, as part of his or her requirement to participate in medical care planning and coordinating for a child, to monitor and oversee the child's use of psychotropic medications. The bill would also require a foster care public health nurse to assist a nonminor dependent to make informed decisions about his or her health care. By imposing these additional duties this additional duty on foster care public health nurses, this bill would impose a state-mandated local program.~~

Existing law restricts the disclosure of medical and mental health information by providers of health care and mental health care services, but authorizes disclosure of this information to county social workers, probation officers, or any other person who is legally authorized to have custody and care of a minor who is in temporary custody or subject to the jurisdiction of the juvenile court, for the purpose of coordinating medical treatment and health care, mental health, and developmental disability services for the minor.

This bill would authorize the disclosure of this health care and mental health care information to a foster care public health nurse, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 56.103 of the Civil Code is amended to  
2 read:  
3 56.103. (a) A provider of health care may disclose medical  
4 information to a county social worker, a probation officer, a foster  
5 care public health nurse acting pursuant to Section 16501.3 of the  
6 Welfare and Institutions Code, or any other person who is legally  
7 authorized to have custody or care of a minor for the purpose of  
8 coordinating health care services and medical treatment provided  
9 to the minor, including, but not limited to, the sharing of  
10 information related to screenings, assessments, and laboratory tests

1 necessary to monitor the administration of psychotropic  
2 medications.

3 (b) For purposes of this section, health care services and medical  
4 treatment includes one or more providers of health care providing,  
5 coordinating, or managing health care and related services,  
6 including, but not limited to, a provider of health care coordinating  
7 health care with a third party, consultation between providers of  
8 health care and medical treatment relating to a minor, or a provider  
9 of health care referring a minor for health care services to another  
10 provider of health care.

11 (c) For purposes of this section, a county social worker, a  
12 probation officer, foster care public health nurse, or any other  
13 person who is legally authorized to have custody or care of a minor  
14 shall be considered a third party who may receive any of the  
15 following:

16 (1) Medical information described in Sections 56.05 and 56.10.

17 (2) Protected health information described in Section 160.103  
18 of Title 45 of the Code of Federal Regulations.

19 (d) Medical information disclosed to a county social worker,  
20 probation officer, foster care public health nurse, or any other  
21 person who is legally authorized to have custody or care of a minor  
22 shall not be further disclosed by the recipient unless the disclosure  
23 is for the purpose of coordinating health care services and medical  
24 treatment of the minor and the disclosure is authorized by law.  
25 Medical information disclosed pursuant to this section may not be  
26 admitted into evidence in any criminal or delinquency proceeding  
27 against the minor. Nothing in this subdivision shall prohibit  
28 identical evidence from being admissible in a criminal proceeding  
29 if that evidence is derived solely from lawful means other than  
30 this section and is permitted by law.

31 (e) (1) Notwithstanding Section 56.104, if a provider of health  
32 care determines that the disclosure of medical information  
33 concerning the diagnosis and treatment of a mental health condition  
34 of a minor is reasonably necessary for the purpose of assisting in  
35 coordinating the treatment and care of the minor, that information  
36 may be disclosed to a county social worker, probation officer,  
37 foster care public health nurse, or any other person who is legally  
38 authorized to have custody or care of the minor. The information  
39 shall not be further disclosed by the recipient unless the disclosure

1 is for the purpose of coordinating mental health services and  
2 treatment of the minor and the disclosure is authorized by law.

3 (2) As used in this subdivision, “medical information” does not  
4 include psychotherapy notes as defined in Section 164.501 of Title  
5 45 of the Code of Federal Regulations.

6 (f) The disclosure of information pursuant to this section is not  
7 intended to limit the disclosure of information when that disclosure  
8 is otherwise required by law.

9 (g) For purposes of this section, “minor” means a minor taken  
10 into temporary custody or as to whom a petition has been filed  
11 with the court, or who has been adjudged to be a dependent child  
12 or ward of the juvenile court pursuant to Section 300 or 601 of the  
13 Welfare and Institutions Code.

14 (h) (1) Except as described in paragraph (1) of subdivision (e),  
15 nothing in this section shall be construed to limit or otherwise  
16 affect existing privacy protections provided for in state or federal  
17 law.

18 (2) Nothing in this section shall be construed to expand the  
19 authority of a social worker, probation officer, foster care public  
20 health nurse, or custodial caregiver beyond the authority provided  
21 under existing law to a parent or a patient representative regarding  
22 access to medical information.

23 SEC. 2. Section 5328.04 of the Welfare and Institutions Code  
24 is amended to read:

25 5328.04. (a) Notwithstanding Section 5328, information and  
26 records made confidential under that section may be disclosed to  
27 a county social worker, a probation officer, a foster care public  
28 health nurse acting pursuant to Section 16501.3, or any other person  
29 who is legally authorized to have custody or care of a minor, for  
30 the purpose of coordinating health care services and medical  
31 treatment, as defined in subdivision (b) of Section 56.103 of the  
32 Civil Code, mental health services, or services for developmental  
33 disabilities, for the minor.

34 (b) Information disclosed under subdivision (a) shall not be  
35 further disclosed by the recipient unless the disclosure is for the  
36 purpose of coordinating health care services and medical treatment,  
37 or mental health or developmental disability services, for the minor  
38 and only to a person who would otherwise be able to obtain the  
39 information under subdivision (a) or any other law.

1 (c) Information disclosed pursuant to this section shall not be  
2 admitted into evidence in any criminal or delinquency proceeding  
3 against the minor. Nothing in this subdivision shall prohibit  
4 identical evidence from being admissible in a criminal proceeding  
5 if that evidence is derived solely from lawful means other than  
6 this section and is permitted by law.

7 (d) Nothing in this section shall be construed to compel a  
8 physician and surgeon, licensed psychologist, social worker with  
9 a master's degree in social work, licensed marriage and family  
10 therapist, licensed professional clinical counselor, nurse, attorney,  
11 or other professional person to reveal information, including notes,  
12 that has been given to him or her in confidence by the minor or  
13 members of the minor's family.

14 (e) The disclosure of information pursuant to this section is not  
15 intended to limit disclosure of information when that disclosure  
16 is otherwise required by law.

17 (f) Nothing in this section shall be construed to expand the  
18 authority of a social worker, probation officer, foster care public  
19 health nurse, or custodial caregiver beyond the authority provided  
20 under existing law to a parent or a patient representative regarding  
21 access to confidential information.

22 (g) As used in this section, "minor" means a minor taken into  
23 temporary custody or for whom a petition has been filed with the  
24 court, or who has been adjudged a dependent child or ward of  
25 juvenile court pursuant to Section 300 or 601.

26 (h) Information and records that may be disclosed pursuant to  
27 this section do not include psychotherapy notes, as defined in  
28 Section 164.501 of Title 45 of the Code of Federal Regulations.

29 SEC. 3. Section 16501.3 of the Welfare and Institutions Code  
30 is amended to read:

31 16501.3. (a) The State Department of Social Services shall  
32 establish and maintain a program of public health nursing in the  
33 child welfare services program that meets the federal requirements  
34 for the provision of health care to minor and nonminor dependents  
35 in foster care consistent with Section 30026.5 of the Government  
36 Code. The purpose of the public health nursing program shall be  
37 to promote and enhance the physical, mental, dental, and  
38 developmental well-being of children in the child welfare system.

39 (b) Under this program, counties shall ~~provide~~ *use* the services  
40 of a foster care public health nurse. The foster care public health

~~nurse and the child's social worker shall consult, collaborate, and share information in a timely manner to ensure that the child's physical, mental, dental, and developmental needs are met. The foster care public health nurse shall~~ *shall work with the appropriate child welfare services workers to coordinate health care services and serve as a liaison with health care professionals and other providers of health-related services. This shall include coordination with county mental health plans and local health jurisdictions, as appropriate.* In order to fulfill these duties, the foster care public health nurse shall have access to the child's medical, dental, and mental health care ~~information.~~ *information, in a manner that is consistent with all relevant privacy requirements.*

(c) The duties of a foster care public health nurse shall include, but need not be limited to, the following:

(1) Documenting that each child in foster care receives initial and followup health screenings that meet reasonable standards of medical practice.

(2) Collecting health information and other relevant data on each foster child as available, receiving all collected information to determine appropriate referral and services, and expediting referrals to providers in the community for early intervention services, specialty services, dental care, mental health services, and other health-related services necessary for the child.

(3) Participating in medical care planning and coordinating for the child. This may include, but is not limited to, assisting case workers in arranging for comprehensive health and mental health assessments, interpreting the results of health assessments or evaluations for the purpose of case planning and coordination, facilitating the acquisition of any necessary court authorizations for procedures or medications, *monitoring and oversight of psychotropic medications*, advocating for the health care needs of ~~the child~~ *child*, and ensuring the creation of linkage among various providers of care.

(4) Providing followup contact to assess the child's progress in meeting treatment goals.

(5) At the request of and under the direction of a nonminor dependent, as described in subdivision (v) of Section 11400, assisting the nonminor dependent in accessing physical health and mental health care, coordinating the delivery of health and mental health care services, advocating for the health and mental health

1 care that meets the needs of the nonminor dependent, assisting the  
2 nonminor dependent to make informed decisions about his or her  
3 health care by, at a minimum, providing educational materials,  
4 and assisting the nonminor dependent to assume responsibility for  
5 his or her ongoing physical and mental health care management.

6 ~~(6) Monitoring, in collaboration with the child's county social~~  
7 ~~worker and mental health worker, each child in foster care who is~~  
8 ~~administered one or more psychotropic medications. This~~  
9 ~~monitoring shall include, but is not limited to, all of the following:~~

10 ~~(A) Reviewing each request for psychotropic medication filed~~  
11 ~~pursuant to Section 369.5 to verify that all required information~~  
12 ~~is provided in the application to the court.~~

13 ~~(B) Reviewing, monitoring, engaging, and documenting in the~~  
14 ~~child's health and education passport, as described in Section~~  
15 ~~16010, that laboratory tests, other screenings and measurements,~~  
16 ~~evaluations, and assessments required to meet reasonable standards~~  
17 ~~of medical practice have been completed.~~

18 ~~(C) Reviewing, monitoring, and confirming that the juvenile~~  
19 ~~court has authorized the psychotropic medication to be~~  
20 ~~administered to the child.~~

21 ~~(D) Reviewing, monitoring, engaging with the caregiver, and~~  
22 ~~confirming through submitted medical reports received from the~~  
23 ~~prescribing physician that periodic followup visits, laboratory~~  
24 ~~work, and other measurements are scheduled and completed.~~

25 ~~(E) Documenting in the child's health and education passport~~  
26 ~~accurate documentation concerning the psychotropic medications~~  
27 ~~authorized for and administered to the child.~~

28 ~~(F) Reviewing and documenting the response of the child to the~~  
29 ~~administration of psychotropic medication through review and~~  
30 ~~interpretation of the laboratory tests, screenings, and reports~~  
31 ~~containing information from the child and received from the~~  
32 ~~caregiver or social worker, and, if necessary, interpreting, for the~~  
33 ~~child's social worker, health information to be included in court~~  
34 ~~reports.~~

35 (d) The services provided by foster care public health nurses  
36 under this section shall be limited to those for which reimbursement  
37 may be claimed under Title XIX of the federal Social Security Act  
38 at an enhanced rate for services delivered by skilled professional  
39 medical personnel. Notwithstanding any other law, this section  
40 shall be implemented only if, and to the extent that, the department

1 determines that federal financial participation, as provided under  
2 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396  
3 et seq.), is available.

4 (e) (1) The State Department of Health Care Services shall seek  
5 any necessary federal approvals for child welfare agencies to  
6 appropriately claim enhanced federal Title XIX funds for services  
7 provided pursuant to this section.

8 (2) Commencing in the fiscal year immediately following the  
9 fiscal year in which the necessary federal approval pursuant to  
10 paragraph (1) is secured, county child welfare agencies shall  
11 provide health care oversight and coordination services pursuant  
12 to this section, and may accomplish this through agreements with  
13 local public health agencies.

14 (f) (1) Notwithstanding Section 10101, prior to the 2011–12  
15 fiscal year, there shall be no required county match of the  
16 nonfederal cost of this program.

17 (2) Commencing in the 2011–12 fiscal year, and each fiscal  
18 year thereafter, funding and expenditures for programs and  
19 activities under this section shall be in accordance with the  
20 requirements provided in Sections 30025 and 30026.5 of the  
21 Government Code.

22 SEC. 4. To the extent that this act has an overall effect of  
23 increasing the costs already borne by a local agency for programs  
24 or levels of service mandated by the 2011 Realignment Legislation  
25 within the meaning of Section 36 of Article XIII of the California  
26 Constitution, it shall apply to local agencies only to the extent that  
27 the state provides annual funding for the cost increase. Any new  
28 program or higher level of service provided by a local agency  
29 pursuant to this act above the level for which funding has been  
30 provided shall not require a subvention of funds by the state nor  
31 otherwise be subject to Section 6 of Article XIII B of the California  
32 Constitution.